

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ARTHUR LEE GARRISON,

Petitioner,

vs.

RENEE BAKER, et al.,

Respondents.

3:15-cv-00429-RCJ-WGC

ORDER

Petitioner, a Nevada prisoner, has submitted a pleading styled as “petition for writ of habeas corpus” on what appears to be a state-court form. ECF No. 1-1. Petitioner has failed to file an application to proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rules LSR1-1, 1-2.

The court also notes that, with his putative pleading, petitioner seeks relief in relation to what he claims is “deliberate indifference” to his serious medical condition on the part of prison officials. Such a claim is not cognizable in a federal habeas proceeding. *See Nettles v. Grounds*, 788 F.3d 992, 1001 (9th Cir. 2015) (“[R]elief is available to a prisoner under the federal habeas statute only if success on the claim would ‘necessarily spell speedier release.’ from custody.”). Petitioner’s federal cause of action, to the extent he has one, would be more properly presented as a complaint under 42 U.S.C. § 1983. *See Estelle v. Gamble*, 429 U.S. 97, 105 (1976) (“Regardless of how evidenced, deliberate

1 indifference to a prisoner's serious illness or injury states a cause of action under § 1983.”).¹

2 **IT IS THEREFORE ORDERED** that this action is DISMISSED without prejudice to the filing
3 of a new action on the court's form for a complaint under 42 U.S.C. § 1983, with either the filing fee
4 or a properly completed application to proceed *in forma pauperis*.

5 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each of an
6 application form to proceed *in forma pauperis* for incarcerated persons and a Section 1983 complaint
7 form, one copy of the instructions for each form, and a copy of the papers that he submitted in this
8 action.

9 **IT IS FURTHER ORDERED** that any pending motions in this action are denied as moot.

10 **IT IS FURTHER ORDERED** that the Clerk shall ENTER JUDGMENT accordingly and close
11 this case.

12 Dated this 25th day of September, 2015.

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15 UNITED STATES DISTRICT JUDGE
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26 ¹ Petitioner has also filed a “motion for emergency cure” with which he asks this court to
27 order prison officials to conduct a “full body CAT scan.” ECF No. 4. The allegations in the motion
28 do not establish that this court’s intervention is warranted prior to the filing of a cognizable action
under Section 1983.